

**OPEN MEETING**  
**ORIGINAL**  
**MEMORANDUM**



RECEIVED

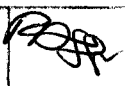
Arizona Corporation Commission

TO: THE COMMISSION **DOCKETED**

FROM: Utilities Division AUG 9 2011

DATE: August 9, 2011

2011 AUG -9 P 12:03

DOCKETED BY 

AZ CORP COMMISSION  
DOCKET CONTROL

RE: COX ARIZONA TELCOM, L.L.C. TARIFF FILING TO ADD/REVISE MAX RATES (DOCKET NO. T-03471A-10-0498)

Introduction

On December 15, 2010, Cox Arizona Telcom, L.L.C. ("Cox" or "Company") filed revisions to its Local Exchange Service Tariff to increase maximum recurring and non-recurring rates for residential and business services. Although Arizona Corporation Commission ("Commission") approval of the proposed tariff revisions would authorize Cox to increase its customers' rates, Cox does not propose to increase any recurring or non-recurring rate that it currently charges any of its customers at this time.

In Decision No. 60825, dated July 2, 1997, the Commission concluded that the local exchange company and intraLATA/interLATA services which Cox provides are competitive pursuant to Arizona Administrative Code ("A.A.C.") R14-2-1108 of the Commission's Competitive Telecommunications Services Rules. A.A.C. R14-2-1108 contains the requirements necessary for the determination of a Competitive Telecommunications Service. Therefore, the pricing and rate change provision of A.A.C. R14-2-1109 and A.A.C. R14-2-1110 apply to changes in either the price levels or maximum rates for services provided by Cox. A.A.C. R14-2-1109 allows Cox to price a competitive telecommunications service at any level at or below the maximum rate stated in the Company's tariff on file with the Commission, provided that the price for the service is not less than the Company's total service long-run incremental (marginal) cost of providing the service. Pursuant to A.A.C. R14-2-1110, Cox is required to submit the following information in order to increase the maximum rates for a competitive telecommunications service:

1. A statement setting forth the reasons for which a rate increase is required;
2. A schedule of current rates and proposed rates and the additional revenues to be derived from the proposed rates;
3. An affidavit verifying that appropriate notice of the proposed rate increase has been provided to customers of the service;

In its December 15, 2010 filing, Cox proposes to increase maximum recurring and non-recurring rates for 217 residential and business services. Cox does not propose to increase any recurring and non-recurring rate that it currently charges its customers at this time.

In its March 16, 2011 filing, Cox amended its application in its entirety to correct pagination issues. Its filing did not amend its original proposal to increase maximum recurring and non-recurring rates for 217 residential and business services.

In its April 21, 2011 filing, Cox amended its application to increase maximum recurring and non-recurring rates for 80 residential and business services rather than the 217 services proposed in its December 15, 2010 filing. Cox does not propose to increase any recurring and non-recurring rate that it currently charges its customers at this time.

### Background

On January 6, 2011, Staff issued its First Set of Data Requests. On March 1, 2011, Staff issued its Second Set of Data Requests. On March 3, 2011, Staff issued its Third Set of Data Requests. In all cases, Cox provided appropriate data responses and also responded with supplemental information to informal requests. Direct discussions were held between Staff and Cox on February 25, 2011 and March 22, 2011, regarding Customer Notice options and estimated annual revenue impacts corresponding to the proposed maximum increases.

On April 21, 2011, Cox filed a revised application to reduce the number of services for which it seeks maximum recurring and non-recurring rate increases from 217 to 80. Business customers would be impacted by proposed maximum recurring and non-recurring rate increases for four services. Residential customers would be impacted by proposed maximum recurring and non-recurring increases in 61 services. Fifteen additional services for which it seeks maximum recurring and non-recurring rate increases are offered to both Residential and Business customers.

In response to Staff's First and Third Set of Data Requests, Cox explained that approval of the proposed maximum recurring and non-recurring rate increases was being sought for two reasons:

1. The primary reason is the Commission's pending review and possible revision of the Arizona Universal Service Fund ("AUSF") and Intrastate Access Rates (Docket Nos. RT-00000H-97-0137 and T-00000D-00-0672) that is expected to result in a revenue reduction equaling several million dollars that can only be recovered by price rebalancing.
2. Cox requires increased pricing flexibility to effectively respond to key competitive segments which either have more flexible tariff pricing or are not regulated by the Commission and therefore have no pricing limitations.

However, Staff disagrees with the Company's primary reason for the filing. The Commission has not issued a Decision in the consolidated AUSF/Access docket and, at this point, Staff and certain of the telecommunications companies have only recommended changes that may require a revision of rates. In addition, Cox acknowledges that it currently has little flexibility to revise its rates because most of its services are priced at their maximum rates.

Therefore, Staff has concluded that approval of the proposed tariff revisions by the Commission should be based on Cox's existing need for increased pricing flexibility rather than a future need related to intrastate access rate reductions that could be ordered by the Commission.

### Staff's Analysis

Staff notes that the number of services and customers impacted by Cox's proposed maximum recurring and non-recurring rate increases constitute the most comprehensive rate change application filed by a competitive local exchange carrier ("CLEC") in Arizona. Cox's Local Exchange Service Tariff contains the terms and conditions for approximately 746 local exchange services. This filing by Cox, as amended on April 21, 2011, therefore, proposes maximum recurring and non-recurring rate increases that will impact approximately 11 percent of its local exchange services and possibly the entire Cox residence customer base. However, the impact on business customers is limited. The proposed maximum recurring and non-recurring rate increases that impact services offered to Business customers are listed in the attached Exhibit 1. The proposed maximum recurring and non-recurring rate increases that impact services offered to Residential customers are listed in the attached Exhibit 2.

Cox states in its responses to Staff's First and Third Set of Data Requests that Staff has recommended a reduction of intrastate access rates by all Incumbent Local Exchange Carriers ("ILECs") and CLECs to a level no higher than Qwest Corporations' (now CenturyLink, Inc.) current intrastate rates. Staff also recommended that ILECs and CLECs offset revenue deficiencies through price adjustments in local exchange services.<sup>1</sup> Staff also recommended that ILECs be required to demonstrate a need to offset reductions in access revenues through rate case filings.<sup>2</sup> Rates for services classified as competitive by the Commission are not set according to rate of return regulation standards. However, CLECs have other means of recovering reductions in access revenues. Staff stated that "CLECs and Cox already have pricing flexibility that will allow them to increase other rates to make up for lost switched access charge revenues. The Commission is likely to give the CLECs time upfront in which to make any compliance filings. To the extent they need to increase any maximum rate levels, they may make filings with the Commission which will take time to resolve."<sup>3</sup> While Cox states its support for an access reduction transition plan that allows carriers cost recovery, it notes that "Cox's current tariff structure does not allow for sufficient flexibility in order for it to recover the amount of lost revenue it will ultimately incur as a result ... As access rates are ratcheted downward, Cox may need to make changes to its rates for it to be able to offset revenue deficiencies."<sup>4</sup>

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<sup>1</sup> Arizona Universal Service Fund, RT-00000H-97-0137, and Generic Investigation Regarding the Costs of Telecommunications Access T-00000D-00-0672; Direct Testimony of Wilfred Shand, January 8, 2010; Hearing Testimony of Wilfred Shand, Volume III, March 18, 2010.

<sup>2</sup> Reply Brief of Commission Staff, September 14, 2010, Arizona Universal Service Fund, RT-00000H-97-0137, and Generic Investigation Regarding the Costs of Telecommunications Access T-00000D-00-0672

<sup>3</sup> Reply Brief of Commission Staff, September 14, 2011, Arizona Universal Service Fund, RT-00000H-97-0137, and Generic Investigation Regarding the Costs of Telecommunications Access T-00000D-00-0672

<sup>4</sup> Cox Response to Staff's First Set of Data Requests

In support of its need for pricing flexibility to compete effectively, Cox states "For the past 13 years, Cox has been providing telecommunications services to customers in the Arizona market. Cox first launched its residential telephone services in 1998 and launched its Cox Business services in 2000. When Cox first prepared and filed its original tariff back in 1997 at the time it received its CC&N, it did not establish maximum rates that were higher than its offered rates for many of its services, both for residential and its business offerings. This has resulted in a lack of flexibility to adjust rates in a timely manner in response to changes in markets or costs. For example, approximately 85% of Cox's residential products and services are priced in its tariff at the maximum rate. Absent a specific rate filing, Cox has no flexibility to increase such pricing until the Commission approves a higher rate or a higher maximum rate. Filing individual requests is a time-consuming and burdensome process. Cox would prefer to address all of its rates in this one filing in order to avoid multiple filings at the Commission as rates may need to be adjusted."<sup>5</sup>

In its response to Staff's First Set of Data Requests, and subsequent updates, Cox provided information allowing Staff to compare the proposed Cox maximum recurring and non-recurring rate increases against ILEC and CLEC maximum recurring and non-recurring rates. Of the 80 proposed Cox maximum recurring and non-recurring rate increases, 63 are less than or equal to the maximum recurring and non-recurring rates currently approved by the Commission for some ILECs<sup>6</sup> or CLECs<sup>7</sup>. This is not conclusive as there are variances in ILEC and CLEC rates. However, Staff's analysis does suggest that Cox's proposed maximum recurring and non-recurring rates are not unreasonable when viewed against ILEC and CLEC competitors and Staff's understanding of the general telecommunications market.

Staff and Cox participated in several discussions concerning the notices of the proposed rate increases that would be sent to residential and business customers. Cox agreed to issue explanatory customer notices, of two paragraphs in length, informing customers of the application filed with the Commission and directing customers to Cox websites for detailed information regarding the proposed maximum recurring and non-recurring rate increases. Customers unable to use the Cox websites were able to receive paper copies of the proposed maximum recurring and non-recurring rate increases by contacting Cox using information provided in the customer notice. Cox expects to complete issuance of all customer notices on July 31, 2011.

#### Staff's Conclusions

Cox states that the "primary reason" for the proposed maximum increases in this matter is related to Cox's need to recover revenue losses which will be realized when the Commission

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<sup>5</sup> Cox Response to Staff's First Set of Data Requests

<sup>6</sup> Arizona Telephone Company, Copper Valley Telephone, Inc, Qwest Corporation

<sup>7</sup> ACN Communication Services, Inc, Airespring, Inc, Arizona Dialtone, Inc, Citynet Arizona, LLC, Eschelon Telecom of Arizona, Inc, Excel Telecommunications, Inc., Level 3 Communications, LLC, McLeodUSA Telecommunications Services, LLC, Mountain Telecommunications of Arizona, Inc, PaeTec Communications, Inc., SBC Telecom Inc., Southwestern Telephone Company, XO Communications Services, Inc, YMax Communications Corp,

issues an order in the Arizona Universal Service Fund Rules and Investigation of the Cost of Telecommunications Access matter (Docket Nos. RT-00000H-97-0137 and T-00000D-00-0672). However, an intrastate access rate reduction has not been ordered by this Commission and the potential impact of such a reduction when ordered is estimated, by Cox<sup>8</sup>, to be relatively minor compared to the total potential annual revenue impact of all maximum rate changes proposed in this matter. Staff re-enforces its position that approval by the Commission of the proposed maximum rate increases in this matter should be based on Cox's existing need for increased pricing flexibility rather than a future need related to an access reduction that could be ordered by the Commission.

Cox's response to Staff's First Set of Data Request holds merit – "... as technology continues to change, Cox is operating with increasing competition from a variety of different carriers and service providers, many of whom are either unregulated by this Commission, or do not file rates for their telecommunications and voice information services. Today, consumers can choose from many differing technologies to receive their telecommunications needs. Competitors such as the local incumbent Qwest (soon to be CenturyLink), VoIP (*Voice over the Internet Protocol*) carriers like Vonage and Magic Jack, and even wireless providers like AT&T, Verizon and Sprint, are all competing for customer's telecom business. While VoIP and wireless carriers are not subject to any pricing restrictions or requirements to file rates with the ACC, Cox is subject to its current pricing limitations. Cox needs to have the flexibility to react timely in order to adjust its pricing beyond its current structure. Cox believes that a rate review is warranted in that it has not sought such review in over 13 years."

Analysis by Staff reveals that the 18 services with proposed maximum rate increases of more than 300% are not exorbitant when compared against the approved rates for other ILECs and CLECs. Thirteen of the 18 services are actually below the approved maximum rates of two key competitors – Qwest Corporation (now CenturyLink, Inc.) or AT&T Communications of the Mountain States, Inc. ("AT&T"). Staff concludes, therefore, that the proposed maximum recurring and non-recurring rate increases are fair and reasonable.

Staff has reviewed the proposed maximum recurring and non-recurring rate increases and believes they are comparable to the rates charged by ILECs and CLECs operating in the State of Arizona. The rates ultimately charged by Cox will be heavily influenced by the market. Cox will not be raising the actual or current rates corresponding to the 80 services in this application, therefore, the initial market impact will be zero. While Staff considered the fair value impacts of the proposed maximum recurring and non-recurring rate increases, the fair value was not given substantial weight in this analysis. Staff concludes that the proposed maximum recurring and non-recurring rate increases are fair and reasonable within the competitive environment present in Arizona. There are local exchange service alternatives that are available to end-users.

Staff also concludes that the use of abbreviated paper customer notices in this application linked to tariff information available at Cox websites emphasizes the importance of making all tariffs available online for use by customers and the general public. Online availability of

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<sup>8</sup> Confidential Cox response to Staff's Third Set of Data Requests

approved tariffs utilized by ILECs and CLECs, such as Qwest and Cox, improve the competitive situation by ensuring information accuracy combined with rapid access.

Staff's Recommendations

Staff recommends approval of this filing with the following conditions:

1. That copies of all written complaints received by Cox within 90 days of a decision in this matter be provided to the Commission as soon as possible but not later than 120 days following a decision in this matter.
2. That Cox not seek additional maximum rate increases related to a Commission decision ordering access reductions in the Arizona Universal Service Fund Rules and Investigation of the Cost of Telecommunications Access matter (Dockets RT-00000H-97-0137 and T-00000D-00-0672).
3. That online access be available for all Cox Arizona Telcom, L.L.C. tariffs within 120 days of a decision in this matter.



Steven M. Olea  
Director  
Utilities Division

SMO:AFF:lhmm\MAS

ORIGINATOR: Armando F. Fimbres

# Exhibit 1

Service	Current Rate	Current Maximum Rate	Proposed Maximum Rate
Non-Sufficient Funds Fee	\$25.00	\$25.00	\$35.00
Goodwill Credit	\$25.00	\$25.00	\$50.00
PIC-2 Change NRC	\$5.00	\$5.00	\$7.00
Business Local Access Line Measured-Rate Service per minute	\$0.10	\$0.10	\$0.40
MTS Direct Dialed Business per Day	\$0.01	\$0.01	\$0.04
MTS Direct Dialed Business per 6-second increment Evening	\$0.01	\$0.01	\$0.04
MTS Direct Dialed Business per 6-second increment Night	\$0.01	\$0.01	\$0.04
MTS Operator Assisted per minute Day	\$0.25	\$0.25	\$0.40
MTS Operator Assisted per minute Evening	\$0.25	\$0.25	\$0.40
MTS Operator Assisted per minute Night	\$0.25	\$0.25	\$0.40
Operator Assisted Surcharges Third Number Billing (Operator Dialed)	\$2.00	\$2.00	\$10.00
Operator Assisted Surcharges Third Number Billing (Customer Dialed)	\$2.00	\$2.00	\$10.00
Operator Assisted Surcharges Calling Card (Operator Dialed)	\$2.00	\$2.00	\$10.00
Operator Assisted Surcharges Collect Calling (Operator Dialed)	\$2.00	\$2.00	\$10.00
Operator Assisted Surcharges Collect Calling Customer Dialed)	\$2.00	\$2.00	\$10.00
Operator Assisted Surcharges Person to Person (Operator Dialed)	\$4.00	\$4.00	\$10.00
Operator Assisted Surcharges Person to Person (Customer Dialed)	\$4.00	\$4.00	\$10.00
Operator Assisted Surcharges Station to Station (Operator Dialed)	\$2.00	\$2.00	\$10.00
Directory Assistance with Call Completion	\$1.99	\$2.00	\$5.00

## Exhibit 2

Service	Current Rate	Current Maximum Rate	Proposed Maximum Rate
Non-Sufficient Funds Fee	\$25.00	\$25.00	\$35.00
Goodwill Credit	\$25.00	\$25.00	\$50.00
Line Connection Charge NRC when bundled	\$9.95	\$9.95	\$20.00
Account Changes NRC	\$10.00	\$10.00	\$15.00
PIC-2 Change NRC	\$5.00	\$5.00	\$7.00
Residence Line Standard Service	\$13.00	\$13.00	\$15.00
Residence Additional Lines	\$13.00	\$13.00	\$15.00
Combination Service	\$11.75	\$11.75	\$15.00
Combination Service Second Line	\$11.75	\$13.00	\$15.00
Combination Service Additional Lines	\$11.75	\$11.75	\$15.00
Busy Line Redial	\$2.75	\$2.75	\$4.00
Busy Line Redial - Per Use	\$0.75	\$0.75	\$3.00
Busy Line Redial NRC	\$10.00	\$10.00	\$15.00
Call Forwarding	\$2.75	\$2.75	\$4.00
Call Forwarding NRC	\$10.00	\$10.00	\$15.00
Call Forwarding - Busy	\$2.75	\$2.75	\$4.00
Call Forwarding - Busy NRC	\$10.00	\$10.00	\$15.00
Call Forwarding - Don't Answer	\$2.75	\$2.75	\$4.00
Call Forwarding - Don't Answer NRC	\$10.00	\$10.00	\$15.00
Call Forwarding - Remote Access	\$2.75	\$2.75	\$4.00
Call Forwarding - Remote Access NRC	\$10.00	\$10.00	\$15.00
Call Return	\$2.75	\$2.75	\$4.00
Call Return Per Use	\$0.75	\$0.75	\$3.00
Call Return NRC	\$10.00	\$10.00	\$15.00
Distinctive Ringing	\$2.75	\$2.75	\$4.00
Distinctive Ringing NRC	\$10.00	\$10.00	\$15.00
Long Distance Alert	\$2.75	\$2.75	\$4.00
Long Distance Alert NRC	\$10.00	\$10.00	\$15.00
Priority Ringing	\$2.75	\$2.75	\$4.00
Priority Ringing NRC	\$10.00	\$10.00	\$15.00
Selective Call Acceptance	\$2.75	\$2.75	\$4.00
Selective Call Acceptance NRC	\$10.00	\$10.00	\$15.00
Selective Call Forwarding	\$2.75	\$2.75	\$4.00
Selective Call Forwarding NRC	\$10.00	\$10.00	\$15.00
Selective Call Rejection	\$2.75	\$2.75	\$4.00
Selective Call Rejection NRC	\$10.00	\$10.00	\$15.00
Speed Calling - 8	\$2.75	\$2.75	\$4.00
Speed Calling - 8 NRC	\$10.00	\$10.00	\$15.00
Three-Way Calling	\$2.75	\$2.75	\$4.00



Service	Current Rate	Current Maximum Rate	Proposed Maximum Rate
Three-Way Calling Per Use	\$0.75	\$0.75	\$3.00
Three-Way Calling NRC	\$10.00	\$10.00	\$15.00
Toll Restriction	\$2.75	\$2.75	\$4.00
Caller ID	\$5.95	\$5.95	\$10.00
Caller ID NRC	\$10.00	\$10.00	\$15.00
Call Waiting	\$4.95	\$4.95	\$10.00
Call Waiting NRC	\$10.00	\$10.00	\$15.00
Call Waiting ID	\$7.95	\$9.00	\$15.00
Call Waiting ID NRC	\$10.00	\$10.00	\$15.00
Solution Package	\$14.95	\$14.95	\$20.00
Solution Package NRC	\$10.00	\$10.00	\$15.00
Call Trace - per Use	\$2.75	\$2.75	\$15.00
Cox Connection 60 Package	\$29.95	\$29.95	\$34.99
Cox Unlimited Connection Package	\$39.95	\$44.95	\$44.99
MTS Direct Dialed Residential per minute Day	\$0.10	\$0.10	\$0.40
MTS Direct Dialed Residential per minute Evening	\$0.10	\$0.10	\$0.40
MTS Direct Dialed Residential per minute Night	\$0.10	\$0.10	\$0.40
MTS Operator Assisted per minute Day	\$0.25	\$0.25	\$0.40
MTS Operator Assisted per minute Evening	\$0.25	\$0.25	\$0.40
MTS Operator Assisted per minute Night	\$0.25	\$0.25	\$0.40
Cox Online LD Plan per minute rate	\$0.10	\$0.10	\$0.40
Operator Assisted Surcharges Third Number Billing (Operator Dialed)	\$2.00	\$2.00	\$10.00
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Directory Listings Additional/Foreign Listings	\$2.00	\$3.00	\$5.00
Directory Listings Additional/Foreign Listings NRC	\$5.00	\$5.00	\$10.00
Directory Listings Non-Published	\$2.00	\$3.00	\$5.00

Service	Current Rate	Current Maximum Rate	Proposed Maximum Rate
Directory Listings Non-Published NRC	\$5.00	\$5.00	\$10.00
Directory Listings Unlisted NRC	\$5.00	\$5.00	\$10.00
Directory Listings Unlisted	\$2.00	\$3.00	\$5.00
Directory Listings Change Listing NRC	\$5.00	\$5.00	\$10.00
Directory Assistance with Call Completion	\$1.99	\$2.00	\$5.00

1                               **BEFORE THE ARIZONA CORPORATION COMMISSION**

2   GARY PIERCE  
      Chairman

3   BOB STUMP  
      Commissioner

4   SANDRA D. KENNEDY  
      Commissioner

5   PAUL NEWMAN  
      Commissioner

6   BRENDA BURNS  
      Commissioner

8   IN THE MATTER OF THE APPLICATION  
9   OF COX ARIZONA TELCOM, L.L.C.  
10  TARIFF FILING TO ADD/REVISE MAX  
11  RATES

DOCKET NO. T-03471A-10-0498

DECISION NO. \_\_\_\_\_

ORDER

12 Open Meeting  
13 September 6 and September 7, 2011  
14 Phoenix, Arizona

14 BY THE COMMISSION:

15                               FINDINGS OF FACT

16           1.   Cox Arizona Telcom, L.L.C. ("Cox" or "Company") is certificated to provide  
17 intrastate telecommunications service as a public service corporation in the State of Arizona.

18           2.   On December 15, 2010, Cox filed revisions to its Local Exchange Service Tariff to  
19 increase maximum recurring and non-recurring rates for residential and business services.

20           3.   Although Arizona Corporation Commission ("Commission") approval of the  
21 proposed tariff revisions would authorize Cox to increase its customers' rates, Cox does not  
22 propose to increase any rate that it currently charges any of its customers at this time.

23           4.   In Decision No. 60825, dated July 2, 1997, the Commission concluded that the  
24 local exchange company and intraLATA/interLATA services which Cox provides are competitive  
25 pursuant to Arizona Administrative Code ("A.A.C.") R14-2-1108 of the Commission's  
26 Competitive Telecommunications Services Rules. A.A.C. R14-2-1108 contains the requirements  
27 necessary for the determination of a Competitive Telecommunications Service. Therefore, the  
28 pricing and rate change provision of A.A.C. R14-2-1109 and A.A.C. R14-2-1110 apply to changes

1 in either the price levels or maximum rates for services provided by Cox. A.A.C. R14-2-1109  
2 allows Cox to price a competitive telecommunications service at any level at or below the  
3 maximum rate stated in the company's tariff on file with the Commission, provided that the price  
4 for the service is not less than the company's total service long-run incremental (marginal) cost of  
5 providing the service. Pursuant to A.A.C. R14-2-1110, Cox is required to submit the following  
6 information in order to increase the maximum rates for a competitive telecommunications service:

- 7 A. A statement setting forth the reasons for which a rate increase is required;
- 8 B. A schedule of current rates and proposed rates and the additional revenues to be  
9 derived from the proposed rates;
- 10 C. An affidavit verifying that appropriate notice of the proposed rate increase has been  
11 provided to customers of the service;

12 5. In its December 15, 2010 filing, Cox proposes to increase maximum recurring and  
13 non-recurring rates for 217 residential and business services. Cox does not propose to increase any  
14 recurring and non-recurring rate that it currently charges its customers at this time

#### 14 Background

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16 Staff issued its Second Set of Data Requests. On March 3, 2011, Staff issued its Third Set of Data  
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19 Cox on February 25, 2011 and March 22, 2011, regarding Customer Notice options and estimated  
20 annual revenue impacts corresponding to the proposed maximum increases.

21 7. In its March 16, 2011 filing, Cox amended its application in its entirety to correct  
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23 non-recurring rates for 217 residential and business services.

24 8. In its April 21, 2011 filing, which replaces its previous filings, Cox amended its  
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26 services rather than the 217 services proposed in its December 15, 2010 filing. Cox does not  
27 propose to increase any recurring and non-recurring rate that it currently charges its customers at  
28 this time.

1           9.     Business customers would be impacted by proposed maximum recurring and non-  
2 recurring rate increases for four services. Residential customers would be impacted by proposed  
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4 which it seeks maximum recurring and non-recurring rate increases are offered to both Residential  
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6           10.    In response to Staff's First and Third Set of Data Requests, Cox explained that  
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9           A.     The primary reason is the Commission's pending review and possible revision of  
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revenue reduction equaling several million dollars that can only be recovered by  
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12          B.     Cox requires increased pricing flexibility to effectively respond to key competitive  
13 segments which either have more flexible tariff pricing or are not regulated by the  
Commission and therefore have no pricing limitations.

14          11.    However, Staff disagrees with the Company's primary reason for the filing. The  
15 Commission has not issued a Decision in the consolidated AUSF/Access docket and, at this point,  
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17 require a revision of rates. In addition, Cox acknowledges that it currently has little flexibility to  
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22 Staff Analysis

23          12.    Staff notes that the number of services and customers impacted by Cox's proposed  
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9 filings.<sup>2</sup> Rates for services classified as competitive by the Commission are not set according to  
10 rate of return regulation standards. However, CLECs have other means of recovering reductions in  
11 access revenues. Staff stated that "CLECs and Cox already have pricing flexibility that will allow  
12 them to increase other rates to make up for lost switched access charge revenues. The  
13 Commission is likely to give the CLECs time upfront in which to make any compliance filings.  
14 To the extent they need to increase any maximum rate levels, they may make filings with the  
15 Commission which will take time to resolve."<sup>3</sup> While Cox states its support for an access  
16 reduction transition plan that allows carriers cost recovery, it notes that "Cox's current tariff  
17 structure does not allow for sufficient flexibility in order for it to recover the amount of lost  
18 revenue it will ultimately incur as a result ... As access rates are ratcheted downward, Cox may  
19 need to make changes to its rates for it to be able to offset revenue deficiencies."<sup>4</sup>

20 14. In support of its need for pricing flexibility to compete effectively, Cox states "For  
21 the past 13 years, Cox has been providing telecommunications services to customers in the  
22 Arizona market. Cox first launched its residential telephone services in 1998 and launched its Cox  
23 Business services in 2000. When Cox first prepared and filed its original tariff back in 1997 at the  
24 \_\_\_\_\_

25 <sup>1</sup> Arizona Universal Service Fund, RT-00000H-97-0137, and Generic Investigation Regarding the Costs of  
26 Telecommunications Access T-00000D-00-0672; Direct Testimony of Wilfred Shand, January 8, 2010; Hearing  
27 Testimony of Wilfred Shand, Volume III, March 18, 2010.

28 <sup>2</sup> Reply Brief of Commission Staff, September 14, 2010, Arizona Universal Service Fund, RT-00000H-97-0137, and  
Generic Investigation Regarding the Costs of Telecommunications Access T-00000D-00-0672

<sup>3</sup> Reply Brief of Commission Staff, September 14, 2011, Arizona Universal Service Fund, RT-00000H-97-0137, and  
Generic Investigation Regarding the Costs of Telecommunications Access T-00000D-00-0672

<sup>4</sup> Cox Response to Staff's First Set of Data Requests

1 time it received its CC&N, it did not establish maximum rates that were higher than its offered  
2 rates for many of its services, both for residential and its business offerings. This has resulted in a  
3 lack of flexibility to adjust rates in a timely manner in response to changes in markets or costs. For  
4 example, approximately 85% of Cox's residential products and services are priced in its tariff at  
5 the maximum rate. Absent a specific rate filing, Cox has no flexibility to increase such pricing  
6 until the Commission approves a higher rate or a higher maximum rate. Filing individual requests  
7 is a time-consuming and burdensome process. Cox would prefer to address all of its rates in this  
8 one filing in order to avoid multiple filings at the Commission as rates may need to be adjusted."<sup>5</sup>

9 15. In its response to Staff's First Set of Data Requests, and subsequent updates, Cox  
10 provided information allowing Staff to compare the proposed Cox maximum recurring and non-  
11 recurring rate increases against ILEC and CLEC maximum recurring and non-recurring rates. Of  
12 the 80 proposed Cox maximum recurring and non-recurring rate increases, 63 are less than or  
13 equal to the maximum recurring and non-recurring rates currently approved by the Commission  
14 for some ILECs<sup>6</sup> or CLECs<sup>7</sup>. This is not conclusive as there are variances in ILEC and CLEC  
15 rates. However, Staff's analysis does suggest that Cox's proposed maximum rates are not  
16 unreasonable when viewed against ILEC and CLEC competitors and Staff's understanding of the  
17 general telecommunications market.

18 16. Staff and Cox participated in several discussions concerning the notices of the  
19 proposed rate increases that would be sent to residential and business customers. Cox agreed to  
20 issue explanatory customer notices, of two paragraphs in length, informing customers of the  
21 application filed with the Commission and directing customers to Cox websites for detailed  
22 information regarding the proposed maximum recurring and non-recurring rate increases.  
23 Customers unable to use the Cox websites were able to receive paper copies of the proposed  
24 maximum recurring and non-recurring rate increases by contacting Cox using information

25 <sup>5</sup> Cox Response to Staff's First Set of Data Requests

26 <sup>6</sup> Arizona Telephone Company, Copper Valley Telephone, Inc, Qwest Corporation

27 <sup>7</sup> ACN Communication Services, Inc, Airespring, Inc, Arizona Dialtone, Inc, Citynet Arizona, LLC, Eschelon  
28 Telecom of Arizona, Inc, Excel Telecommunications, Inc., Level 3 Communications, LLC, McLeodUSA  
Telecommunications Services, LLC, Mountain Telecommunications of Arizona, Inc, PaeTec Communications, Inc.,  
SBC Telecom Inc., Southwestern Telephone Company, XO Communications Services, Inc, YMax Communications  
Corp.

1 provided in the customer notice. Cox expects to complete issuance of all customer notices on  
2 July 31, 2011.

3 Staff Conclusions

4 17. Cox states that the "primary reason" for the proposed maximum increases in this  
5 matter is related to Cox's need to recover revenue losses which will be realized when the  
6 Commission issues an order in the Arizona Universal Service Fund Rules and Investigation of the  
7 Cost of Telecommunications Access matter (Docket Nos. RT-00000H-97-0137 and T-00000D-00-  
8 0672). However, an intrastate access rate reduction has not been ordered by this Commission and  
9 the potential impact of such a reduction when ordered is estimated, by Cox<sup>8</sup>, to be relatively minor  
10 compared to the total potential annual revenue impact of all maximum rate changes proposed in  
11 this matter. Staff re-enforces its position that approval by the Commission of the proposed  
12 maximum rate increases in this matter should be based on Cox's existing need for increased  
13 pricing flexibility rather than a future need related to an access reduction that could be ordered by  
14 the Commission.

15 18. Cox's response to Staff's First Set of Data Requests holds merit – "... as  
16 technology continues to change, Cox is operating with increasing competition from a variety of  
17 different carries and service providers, many of whom are either unregulated by this Commission,  
18 or do not file rates for their telecommunications and voice information services. Today,  
19 consumers can choose from many differing technologies to receive their telecommunications  
20 needs. Competitors such as the local incumbent Qwest (soon to be CenturyLink), VoIP (Voice  
21 over the Internet Protocol) carriers like Vonage and Magic Jack, and even wireless providers like  
22 AT&T, Verizon and Sprint, are all competing for customer's telecom business. While VoIP and  
23 wireless carriers are not subject to any pricing restrictions or requirements to file rates with the  
24 ACC, Cox is subject to its current pricing limitations. Cox needs to have the flexibility to react  
25 timely in order to adjust its pricing beyond its current structure. Cox believes that a rate review is  
26 warranted in that it has not sought such review in over 13 years."

27 \_\_\_\_\_  
28 <sup>8</sup> Confidential Cox response to Staff's Third Set of Data Requests



1           19. Analysis by Staff reveals that the 18 services with proposed maximum rate  
2 increases of more than 300 percent are not exorbitant when compared against the approved rates  
3 for other ILECs and CLECs. Thirteen of the 18 services are actually below the approved  
4 maximum rates of two key competitors – Qwest Corporation (now CenturyLink, Inc.) or AT&T  
5 Communications of the Mountain States, Inc. (“AT&T”). Staff concludes, therefore, that the  
6 proposed maximum recurring and non-recurring rate increases are fair and reasonable.

7           20. Staff has reviewed the proposed maximum recurring and non-recurring rate  
8 increases and believes they are comparable to the rates charged by ILECs and CLECs operating in  
9 the State of Arizona. The rates ultimately charged by Cox will be heavily influenced by the  
10 market. Cox will not be raising the actual or current rates corresponding to the 80 services in this  
11 application, therefore, the initial market impact will be zero. While Staff considered the fair value  
12 impacts of the proposed maximum recurring and non-recurring rate increases, the fair value was  
13 not given substantial weight in this analysis. Staff concludes that the proposed maximum  
14 recurring and non-recurring rate increases are fair and reasonable within the competitive  
15 environment present in Arizona. There are local exchange service alternatives that are available to  
16 end-users.

17           21. Staff also concludes that the use of abbreviated paper customer notices in this  
18 application linked to tariff information available at Cox websites emphasizes the importance of  
19 making all tariffs available online for use by customers and the general public. Online availability  
20 of approved tariffs utilized by ILECs and CLECs, such as Qwest and Cox, improve the  
21 competitive situation by ensuring information accuracy combined with rapid access.

22 Staff Recommendations

23           22. Staff recommends approval of this filing with the following conditions:

24           A. That copies of all written complaints received by Cox within 90 days of a decision  
25 in this matter be provided to the Commission as soon as possible but not later than  
120 days following a decision in this matter.

26           B. That Cox not seek additional maximum rate increases related to a Commission  
27 decision ordering access reductions in the Arizona Universal Service Fund Rules  
28 and Investigation of the Cost of Telecommunications Access (Docket Nos. RT-  
00000H-97-0137 and T-00000D-00-0672) matter.

- 1 C. That online access be available for all Cox Arizona Telcom, L.L.C. tariffs within  
2 120 days of a decision in this matter.

3 CONCLUSIONS OF LAW

4 1. Cox Arizona Telcom, L.L.C. is a public service corporation within the meaning of  
5 Article XV of the Arizona Constitution.

6 2. The Commission has jurisdiction over Cox Arizona Telcom, L.L.C. and the subject  
7 matter in this filing.

8 3. The Commission, having reviewed the filing and Staff's Memorandum dated  
9 August 9, 2011, concludes that the proposed tariff revisions as discussed herein are reasonable, fair  
10 and equitable and therefore in the public interest.

11 ORDER

12 IT IS THEREFORE ORDERED that proposed tariff revisions be and hereby are approved  
13 as discussed herein.

14 IT IS FURTHER ORDERED that copies of all written complaints received by Cox  
15 Arizona Telcom, L.L.C. within 90 days of a decision in this matter be provided to the Commission  
16 as soon as possible but not later than 120 days following a decision in this matter.

17 IT IS FURTHER ORDERED that Cox not seek additional maximum rate increases related  
18 to a Commission decision ordering access reductions in the Arizona Universal Service Fund Rules  
19 and Investigation of the Cost of Telecommunications Access (Docket Nos. RT-00000H-97-0137  
20 and T-00000D-00-0672) matter.

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that online access be available for all Cox Arizona Telcom, L.L.C. tariffs within 120 days of a decision in this matter.

IT IS FURTHER ORDERED that this Decision shall be become effective immediately.

**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:AFF:lh\MAS

1 SERVICE LIST FOR: Cox Arizona Telcom, L.L.C.  
2 DOCKET NO. T-03471A-10-0498

3 Mr. Mark DiNunzio  
4 Director, AZ Regulatory Affairs  
5 Cox Arizona Telcom, L.L.C.  
6 1550 West Deer Valley Road  
7 Phoenix, Arizona 85027

8 Mr. Norman G. Curtright  
9 Associate General Counsel  
10 CenturyLink, Inc.  
11 20 East Thomas Road, 1<sup>st</sup> Floor  
12 Phoenix, Arizona 85012

13 Mr. Reed Peterson  
14 State Regulatory Affairs Director  
15 CenturyLink, Inc.  
16 20 East Thomas Road, 1<sup>st</sup> Floor  
17 Phoenix, Arizona 85012

18 Mr. Steven M. Olea  
19 Director, Utilities Division  
20 Arizona Corporation Commission  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

23 Ms. Janice M. Alward  
24 Chief Counsel, Legal Division  
25 Arizona Corporation Commission  
26 1200 West Washington Street  
27 Phoenix, Arizona 85007  
28